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SUBJECT: BILATERAL WORKING GROUP DISCUSSES VIETNAM'S PROGRESS TOWARD  
MARKET ECONOMY STATUS

REF: A) U.S. and Vietnam Joint Statement of June 24, 2008;  
B) Hanoi 654 ("SOE Reform Key to Improving Business Climate")

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¶1. (U) Summary: At the first meetings of the Market Economy Working Group, the United States and Vietnam discussed the latter's progress in transitioning to a market economy. The U.S. delegation, led by the Department of Commerce, emphasized that substantial work remains to be done to reduce the government's intervention in the economy, and to level the playing field between the private sector and Vietnam's large state-owned sector. Vietnam acknowledged these shortcomings but pointed to its ongoing efforts to allow market economy forces to assert themselves over the economy. The U.S. side also pointed to restrictions on labor freedoms as another factor weighing down Vietnam. The Working Group agreed to hold its next meeting in the first quarter of 2009. End summary.

#### FIRST MEETING OF THE MARKET ECONOMY WORKING GROUP

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¶2. (U) The Market Economy Working Group (MES WG), the creation of which had been announced during Prime Minister Nguyen Tan Dung's visit to the United States in June 2008 (REF A), held its first meetings in Hanoi on December 11 and 12. The U.S. side was led by Department of Commerce Import Administration Assistant Secretary David Spooner, while the Vietnamese side was headed by Bach Van Mung, Director General of the Ministry of Industry and Trade's Competition Department. Embassy Econoff, three DOC experts and Spooner's chief of staff joined, and representatives from several ministries of the Government of Vietnam (GVN), such as Labor, Foreign Affairs, Finance, and Planning and Investment, also attended.

#### REVIEWING VIETNAM'S PROGRESS

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¶3. (U) The U.S. side began the first session by recognizing the significant efforts that Vietnam has taken to introduce market economy practices, particularly since the 2002 U.S. Commerce Department determination that Vietnam was not a market economy as part of an investigation on Vietnamese catfish exports. The Vietnamese pointed out that production costs are determined by market forces, that state owned commercial banks are for-profit ventures, and wide access to foreign exchange and profit repatriation, as signs that Vietnam had made much progress since ¶2002.

¶4. (U) The U.S. delegation noted, however, that implementation gaps

remain even in areas where Vietnam has taken action, such as state-owned enterprise (SOE) privatization and the Investment Law. "It's important to distinguish between 'de jure' and 'de facto' reforms," DOC Senior Economist Albert Hsu, said. Spooner reassured the Vietnamese that the United States did not intend to "pass judgment over Vietnam's policy choices," and that it did not expect Vietnam to comply with every single criteria in order to 'graduate' into market economy status. The U.S. delegation also reassured the Vietnamese that, in reviewing market economy status, the United States distinguishes between market economy issues and other issues typical of developing economies such as Vietnam's.

#### STATE INTERVENTION IN THE ECONOMY AND SOES

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15. (U) In particular, the U.S. side pointed to many areas where the GVN remains heavily involved in the economy. It cited, for example, the large size of the SOE sector, especially in banking. They cited the GVN's role as both regulator and owner of state owned commercial banks as particularly problematic. "It would be useful to separate those two roles and allow the State Bank of Vietnam true independence," Hsu said. In addition, the U.S. stated that SOEs enjoy disproportionate and preferential access to land rights, while many investment sectors remain open only to SOE operators.

16. (U) In response, the Vietnamese side acknowledged that the SOE sector was problematic. "True, there have been sectors that were monopolized by SOEs and [where there has been] no level playing field," Director General Mung said. "Vietnam is still in transition, that is why there are still some sectors that are controlled by SOEs." He said he hoped that the GVN's slow-moving roadmap for the partial privatization (or 'equitization') of SOEs (REF B) would address these shortcomings in the near future.

#### LABOR HURDLES

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17. (U) Labor also emerged as one of the factors weighing against Vietnam. The U.S. team stated that wages typical of a market economy had to be the result of "a genuine bargain between labor and management," and that workers had to be free to negotiate about the terms of employment. "We look at the state of trade unions and collective bargaining," the U.S. experts said. Vietnam claimed that its workers had rights to collective bargaining" and could negotiate wages freely. [Note: Vietnam, however, appears unwilling to make the necessary reforms to enable freedom of association and collective bargaining before 2011. Septel.]

#### THE ROAD AHEAD

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18. (U) Although the Vietnamese side recognized that they still did not meet the criteria to graduate to market economy status, many from the GVN interagency group, including Director General Mung himself, expressed hopes that Vietnam could request a review in the very near future. They floated the idea of graduating some sectors of the economy separately, but the United States team responded that it was hard to envision how an economy could be a true market economy when there were sectors that remain non-market.

19. (U) The two sides agreed to meet again in late spring of 2009 at the experts' level in Vietnam (to save their much larger side the cost of travel), and in the summer at the Assistant Secretary's level, at alternating sites.

#### PRIVATE SECTOR ROUNDTABLES

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110. (U) Assistant Secretary Spooner also met with U.S. and Vietnamese private sector representatives on the margins of the MES WG meetings. At a meeting hosted by the U.S.-ASEAN Business Council, Spooner and U.S. business officials discussed, in addition to the MES WG work, the Bilateral Investment Treaty negotiations, Vietnam's request for Generalized System of Preferences

consideration, and the Transpacific Partnership agreement. Several of the companies, including Chevron, thanked the A/S for recent Commerce Department advocacy on their behalf by Secretary Gutierrez during Deputy Prime Minister Hai's trip to Washington, DC in November. At a discussion with textile and steel members of the Vietnam Chamber of Commerce earlier, A/S Spooner discussed steps Vietnam and individual industries would have to take to qualify for market economy status under U.S. law. Textile companies expressed their appreciation for the results of DOC's third and latest data review of Vietnamese textile exports which demonstrated insufficient evidence to initiate anti-dumping action.

COMMENT: ANOTHER LEVERAGE FOR REFORM  
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¶11. (U) Like GSP and TPP, market economy status provides us with another avenue to press systemic reforms in Vietnam, and all three are Vietnam-driven issues. After the two-day rounds of the MES WG, it looks like graduation is not entirely out of the question, especially if Vietnam gets serious about pursuing it. However, reform moves slowly in Vietnam, even when it leads to a desirable outcome, as we have seen with GSP (Septel). Continuing to engage on Market Economy, and allowing the Vietnamese to understand clearly what they need to do, can only help it make the transition to a modern economy and polity. End Comment.

¶12. (U) This telegram was coordinated with the Department of Commerce.

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